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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052146
Party	Plaintiff Corporacion Habanos, S.A. and Empresa Cubana del Tabaco, d.b.a. Cubatabaco
Correspondence Address	DAVID B. GOLDSTEIN RABINOWITZ, BOUDIN, STANDARD, ET AL 45 BROADWAY, SUITE 1700 NEW YORK, NY 10006-3791 UNITED STATES dgoldstein@rbskl.com
Submission	Motion for Default Judgment
Filer's Name	David B. Goldstein
Filer's e-mail	dgoldstein@rbskl.com
Signature	/David B. Goldstein/
Date	09/27/2011
Attachments	Pinar del Rio.Motion for Default Judgment.pdf (3 pages)(20772 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark Registration No. 3542236
Registered (Supplemental): December 2, 2008
Mark: PINAR DEL RIO

CORPORACION HABANOS, S.A., and EMPRESA)	
CUBANA DEL TABACO, d.b.a. CUBATABACO,)	
)	
Petitioners,)	
)	
v.)	Cancellation No.92052146
)	
RODRIGUEZ, JUAN E.,)	
)	
Respondent.)	
)	

PETITIONERS' MOTION FOR DEFAULT JUDGMENT

Petitioners CORPORACION HABANOS, S.A. and EMPRESA CUBANA DEL TABACO ("Cubatabaco") (together "Petitioners"), by and through their undersigned counsel, hereby move for a default judgment against RODRIGUEZ, JUAN E., ("Respondent") in the above-captioned matter, pursuant to Fed. R. Civ. P. 55(c); 37 C.F.R. § 2.114(a); and TBMP §§ 312.01, 508, on the ground that Respondent has failed to file an Answer to Petitioners' Petition to Cancel, which Answer was required to be filed by September 19, 2011, and in support thereof state as follows:

1. On March 1, 2010, Petitioners filed a Petition to Cancel the registration of PINAR DEL RIO, Registration No. 3542236, for "cigars," on the Supplemental Register of the United States Patent and Trademark Office ("USPTO"), mark registered on December 2, 2008.
2. On April 19, 2010, counsel for Respondent filed Appearances of Counsel/Power of Attorney in this proceeding (D.E. 6, 7).

3. On May 22, 2010, Respondent, through its counsel, filed a motion to dismiss the Petition, and on July 14, 2010, Respondent, through counsel, filed a Reply in further support of the motion to dismiss (D.E. 10, 14).

4. On August 1, 2011, the Board denied the motion to dismiss and reset the schedule in this proceeding (D.E. 16). The Board set September 17, 2011 (a Saturday) as the time for Respondent to Answer, so that Respondent's Answer was due no later than Monday, September 19, 2011. Aug. 1 Order at 12.

5. As of the date of this filing, September 27, 2011, Respondent has not filed an Answer with the Board or served an Answer on Petitioners. Neither Respondent nor its counsel has filed a motion for an extension of the time to Answer or any other paper with the Board. Neither Respondent nor its counsel has contacted Petitioners or their counsel to request an extension of time to Answer, and has not otherwise contacted counsel following the Board's August 1, 2011 Order.

6. Respondent has not made, and cannot make, any showing that good cause excuses its failure to file a timely Answer, or its failure to file an Answer to date, or that judgment should not be entered against it. *See* Fed.R.Civ.P. 55(c); 37 C.F.R. § 2.114(a); TBMP §§ 312.01, 508; *DeLorme Pub'g Co. v. Eartha's Inc.*, 60 USPQ2d 1222 (TTAB 2000).

7. Registrant's cigars do not come from Pinar del Rio, Cuba, or elsewhere in Cuba. Registrant's PINAR DEL RIO mark is, *inter alia*, primarily geographically deceptively misdescriptive under section 2(e)(3) of the Lanham Act, as more fully pleaded in the Petition to Cancel. *See also* *Corporacion Habanos, S.A. v. Annacas, Inc.*, 88 USPQ2d 1785 (TTAB 2008) (refusing registration of mark HAVANA CLUB for non-Cuban cigars under section 2(e)(3)).

8. Respondent has effectively abandoned its registration on the Supplemental Register by its failure to file a timely Answer.

WHEREFORE, Petitioners request that: the Motion for Default Judgment be granted; a default judgment be entered against Registrant; Registration No. 3542236 on the Supplemental Register for PINAR DEL RIO be cancelled pursuant to 15 U.S.C. § 1064; and this Petition be sustained in favor of the Petitioners.

Dated: September 27, 2011

Respectfully submitted,

/David B. Goldstein/
DAVID B. GOLDSTEIN
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
45 Broadway – Suite 1700
New York, New York 10006
212-254-1111
dgoldstein@rbskl.com
*Attorneys for Petitioners Corporacion Habanos,
S.A. and Empresa Cubana del Tabaco*

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Petitioners' Motion for Default Judgment was served on Respondent by U.S. first class mail, postage prepaid, on September 27, 2011 upon:

Taylor M. Norton
LEBLANC BLAND, P.L.L.C.
909 Poydras Street, Suite 1860
New Orleans, LA 70112
Attorneys for Respondent

/David B. Goldstein/
David B. Goldstein